Plaintiff's Exhibit 1978

9279 BEFORE THE BOARD OF CENSORS
of the
MULTNOMAH COUNTY MEDICAL SOCIETY

Preliminary Hearing
Held
April 29, 1937

ROSCOE F. HUNT
OFFICIAL REPORTER—NOTARY PUBLIC
304 COURT HOUSE PHONE ATWATER 5221
PORTLAND, OREGON

9280 BEFORE THE BOARD OF CENSORS
OF THE
MULTNOMAH COUNTY MEDICAL SOCIETY

Preliminary Hearing

of Drs. Ray S. Stearns, W. H. Bueermann, F. H. Dammasch, George E. Henton, Joseph D. Sternberg, Birchard A. Van Loan, W. J. Gilstrap, Lester T. Jones, Eugene P. Owen, J. Guy Strohm, F. Floyd South, and H. F. Leonard

concerning the contract practice
engaged in by them
in connection with the
Multnomah Industrial Health Association

A meeting of the Board of Censors of the Multnomah County Medical Society was held in the Auditorium of the Medical-Dental Building, Portland, Oregon, Thursday, April 29, 1937, at 7:30 o'clock P. M.

Present: Dr. Chas. E. Sears, Chairman,
Dr. Frank R. Mount
Dr. Roy A. Payne,
constituting the Board of Censors;

Dr. Richard B. Adams, Chairman,
Dr. Stanley Lamb,
constituting the Grievance Committee;

Clyde C. Foley, Executive Secretary.

There were also present in the room the doctors above named as concerned in contract practice with the Multnomah Industrial Health Association.

Thereupon, the following proceedings were had:

Dr. Sears: The meeting will please come to order. The matter tonight, I think you all appreciate, is more
9281 or less of an informal discussion. However, informal as we try to keep it, there are a good many features here, and it will be necessary to expedite matters, and having received the notices that were sent you, there is nothing any deeper or more profound involved than the general subject matter that was addressed to you, and I don't think at this moment it is necessary to make any comments. It will develop in the course of the evening that this is more or less of a general discussion of matters that have been hanging fire and been in the air for sometime. It is necessary, however, to formalize it somewhat, so I think that I will ask Dr. Adams to present the matter rather briefly, and after this, or in the meantime, it might be well in so far as there are a number of you here, to have some reasonable procedure, so that we don't get into a lot of extraneous matter, and that there be some point to the discussion. I don't know whether you have discussed this matter among yourselves as it will come up tonight, and whether you wish to approach the matter as individuals or whether you wish one of you to make a general statement or a general reply to Dr. Adams' statements, so that will be a matter left to your pleasure, because as I say, we are going to try to make this just as informal as possible, but it will be necessary to have a reasonable form about it, that it doesn't drag into too much side discussion and be too lengthy.

Dr. Henton: Mr. President, might I suggest that Dr. Stearns, the president of the Multnomah, act as spokesman and anything that he might need as facts he
9282 can get from those present.

Dr. Sears: Very well. Dr. Adams, if you will read the matter you have to present.

Dr. Adams: I might say first that the Board of Censors is a familiar institution to all of you, provided for in the constitution. The grievance committee is appointed by the Council of the County Medical Society, to assist the Board of Censors in enforcing the code of ethics and related matters in this county, and it is charged with the fuction of investigating any alleged unethical conduct of any member of the Multnomah County Medical Society

coming to its attention in any way or through any source, to determine whether or not there is any truth in the accusation of any such member, or unethical conduct, and make such report to the Board of Censors and the Council of the result of such investigation as may be deemed best by the committee, and to make and file any written charges against the members of this Society as is called for in the by-laws and the committee deems it advisable and justified. You men are called tonight as individuals, twelve of you, and not as officials of any corporation. The Medical Society does not have under its jurisdiction and control the affairs of any corporation of those individual physicians that might be members of the Society. The committee has been guided by the principles of medical ethics and the ten statements of principles made at the Cleveland Convention in 1934. To further explain specifically, the
9283 code of ethics and the statement of principles and procedure for the trial of contract practice adopted by the house of delegates of the Oregon State Medical Society, which is a self-explanatory document and a defining document, is largely related to the same code of ethics.

Now, I think you also ought to know that you are here as individuals, and being handled as a group because all of these complaints relate alike to each of you, and if any one of you feel that that particular reply or accusation or statement or what it might be does not apply to you personally, then I think you should understand that it is certainly your privilege to interrupt and correct the record to that effect.

This committee has received complaints relating to several matters. First, the question of solicitation of patients: The names of several solictors and concerns connected therewith I will shortly read. Secondly, we have received complaints of advertising, and we have here a circular which I will pass around. Third, the question of underbidding is specifically mentioned in connection with Fields Motor Car Company, November, 1936. Fourth, a complaint that free choice of physician is prevented by the limited panel of the Multnomah Industrial Health Association with which you men are associated in the practice. Fifth, that in several manners your acts have been contrary to sound public policy,—a rather broad provision, but particularly in connection with the servicing of individuals above the comfort level by contract medicine. Sev-
9284 eral individuals have been complained of specifically. Also, because below cost rates have been paid to hospitals. That might also come under the under-bidding

clause, in that the group of doctors have utilized a group policy to get a cheaper price from the hospital and thereby have been placed in a position to underbid another group of doctors possibly that have not, on account of their lesser buying power been in the same position. It is rather technical, but the point has been brought out.

* * * * *

9294 entrust this committee with that information. He seemed to feel that was a personal matter, and I don't believe we have the power to subpoena him to divulge that information.

Dr. Mount: Well, is that why you bring his name into it?

Dr. Adams: I bring this into it because we had a complaint to that effect, that he was an owner and operator of a—in fact of an automobile dealer company, and the implication was that of course in that position he was above the comfort level.

Executives of Lipman, Wolfe & Company, of which we have a complaint, I quote from the minutes of the directors' meeting of the Multnomah Industrial Health Association, held April 17th, 1935: "Final order of business was the question of the acceptance of the Lipman & Wolfe account. Because it would necessitate our accepting a certain indefinite number of individuals earning above $1800.00 a year, and inasmuch as it involved a group of 500 employees, the matter was deemed sufficiently important to get an expression from the directors in the matter. After a very full discussion in the presence of the trustees, the directors voted to accept the contract as presented. Doctors—"—I will leave their names out, two doctors "recorded negative votes. The trustees were present and of the trustees, Dr. Blank alone recorded a negative vote." So apparently the organization accepted the Lipman, Wolfe & Company account in 1935, April 17th, 1935, with full knowledge that there were several employes earning more than

9295 $1800.00 a year.

The below cost rates paid to hospitals. The indication is that change having been made rather recently, that no actual payments have been made at the increased rate as yet. Now that might not be true right now. You will have an opportunity to correct me on that, Dr. Dammasch. That appeared to the best of this committee's ability to be the case a week ago or thereabouts.

Now, I think in connection with any of the statements we have made, if any of you men wish to make statements

in further extension of these remarks, or in rebuttal of them, or in correction or anything, that that would be in order.

Dr. Stearns: I think the first thing, as long as notes are being taken, that we have a right for duplicate minutes. We may have them, may we not?

Dr. Sears: Yes, sir.

Dr. Mount: They have always been available on payment of the cost of transcription.

Dr. Stearns: And also, as long as this is a conciliatory meeting, and in view of the fact that the Multnomah Industrial Health Association December 9th, 1935, wrote the Multnomah County Society setting out certain desires which they wished to be informed upon, we sent to the Society, and never any reply been made, that a copy of this letter can be put into the minutes.

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9317 Mr. Chairman, is that any member of the Multnomah County Medical Society that wishes to do this work, under the regulations imposed by our Association, is at liberty to go upon that panel.

Dr. Adams: Under what conditions, Doctor?

Dr. Dammasch: The condition that he becomes a stockholder, as we each and every one of us is.

Dr. Lamb: That is a free choice with limitations.

Dr. Owen: How do you mean that?

Dr. Lamb: You have to become a member and pay a certain fee.

Dr. Adams: No, I think that has been covered by the statement of principles adopted by the delegates of the Oregon State Medical Association at The Dalles last year. "The principle of free choice of physicians is one of the bases of good medical service—(reading)" That is not the paragraph I meant to read.

Dr. Dammasch: I might state that in the beginning of this organization, every member of the City and County Medical society was invited to become a member of the association.

Dr. Owen: And another thing that I might state in connection with that, if an individual voluntarily agrees to pay his monthly stipend and accepts these physicians as his physicians, he is asserting his free choice, is he not, as long as we do not enforce compulsory contracts in any place? The patient has a right not to belong, if he don't want to, and that to me has been rather allowing
9318 him free choice of physician. It would not be a free choice if we were demanding a compulsory

contract. Do you get what I mean, Dr. Sears?

Dr. Sears: I do, I think I do.

Dr. Dammasch: That is one of the things we can talk about when we discuss it informally.

Dr. Sears: Yes, because it might be conciliatory to give this as my general interpretation of the matter that has been discussed. It is true that if you were to start a hospital association, there were three of you in it, you start out with that in mind, the lay individual doesn't quite understand just what that means, and when he gets sick, in the meantime he may have decided that the doctors on the panel are not those that he wished, in that narrow sense that is not a free choice of physicians at all, because any individual in any organization can start a hospital association, and that is not a free choice. On the other hand, where there is a reasonable range, and where all physicians are privileged to enter into the organization, that is something that requires a much broader interpretation, and which I am sure is going to have to be interpreted very broadly, because as the statement has been made—

Dr. Owen: (Interrupted) Then where the individual doesn't have to join if he doesn't want to—

Dr. Dammasch: Let him finish.

* * * * *

9322 further sustained some of these provisions in their statement of principles adopted last year at The Dalles. I might go back and say there has been some objection to the heading on the panel list here, "The Doctors' Own" association. I neglected to mention that, and that has been objected to by some physicians.

Dr. Dammasch: May I know who made the objection?

Dr. Adams: No, you may not, because that is the reason this committee was formed.

Dr. Dammasch: We have never been informed of that objection, have we?

Dr. Adams: I don't know that you have, Doctor.

Dr. Henton: That might be advertising.

Dr. Adams: I don't want to overlook any point in this informal discussion that might in any way be pertinent here. The complaint that the doctors' association conducts practice in a manner contrary to sound public policy. We have mentioned these individuals above the comfort level given service contracts. I named the three, Mr. Thompson, Mr. Jones, and Lipman, Wolfe & Company.

Dr. Dammasch: May I say something there, please? If you will consult the investigations of the Martzloff Com-

mittee, and report, you will find in those proceedings a very considerable list of individuals specifically mentioned and named as far back as that, that have from time to time been removed from our list, as soon as our attention was called to the fact that they were above the comfort
9323 level, and I may also state that I have copies of letters in the office that are constantly going out whenever we have a specific instance brought to our attention. One contract in particular, the Oregon Rating Bureau, which was renewed on March 1st, in which at one swoop eight individuals were eliminated at the time of the renewal of the contract.

Dr. Henton: I might say that at times it is difficult to ascertain what their salary is. We can't compel the man to give it to us.

Dr. Owen: It is an understanding at the time of the signing of the contract that no individual making over $1800.00 a year may be on that contract. As soon as find out, we drop them.

Dr. Dammasch: All the adjusters make it a practice, and I have checked on them, to state at the time that no one above $1800.00 is to get on.

Dr. Sears: Is there any statement attached to your contract whereby it nullifies the agreement?

Dr. Dammasch: No, it is not in the contract, that is a verbal part of it.

Dr. Henton: It could be in there, all right, it would be very well—

Dr. Dammasch: (Interrupting) May I state, Mr. Chairman, that I think we have shown that we want to do everything possible to conform, and if we can get these helpful suggestions, we are willing to accept them.

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9326 The next point is below-cost rates paid the hospitals. Do you wish to make any statement on that?

Dr. Dammasch: Yes, I would like to make a statement on that. Since the inception of the Multnomah, it has consistently paid higher rates than all its competitors. The rate that it has been charged by the hospitals and paid was and is the State Industrial Accident rate. That rate was $2.57 a day or $1800.00 a week prior to March 1st, 1937. Since March 1st, 1937, that rate is $3.00 per day. The surgery and anasthetic that was formerly $15.00 is now $20.00. Discounts that were formerly allowed on X-rays have been discontinued, and we are paying the full tariff since March 1st, 1937. I happen to have in my

pocket here quite by accident a bill rendered by St. Vincent's Hospital to an individual who thought he had a claim against us, and the interesting fact is that St. Vincent's Hospital charged that individual, mind you, that being $18.00 a week, and this rate charged to the private individual is $17.50 a week. In your auditor's report,—and it so happened that while they were there that afternoon, I was okehing some hospital bills, and they actually saw a bill go through to the Portland Sanitarium since March 1st, 1937, and I will quote from their report "in this connection there were submitted for our inspection some recent bills of the Portland Sanitarium, showing charges for beds at the rate of $3.00 per day", and you may take my word, until I can present bills for the month of March, where every hospital in the City of Portland has been paid at that rate. As to whether those
9327 rates are below what it costs the hospital, I am not in a position to judge. That is the rate that they quote us. That is the rate that the State pays, and as I have just told you by this bill that I happen to have here, is shows that the hospitals even render private patients lesser rates.

Dr. Adams: Dr. Dammasch, just as a matter of information and comparison, do you happen to have accurate knowledge of the lowest rate paid in the last year by any hospital association?

Dr. Dammasch: I have no way of knowing what other hospital associations pay, I mean knowledge except by hearsay, and that would not be competent.

Dr. Adams: That closes our complaints.

Dr. Owen: What do the railroads pay the hospitals?

Dr. Dammasch: I don't think we should bring that up.

Dr. Henton: I don't think that is pertinent here.

Dr. Owen: The charge is that we are paying less.

Dr. Henton: We are not trying them now.

Dr. Dammasch: I think, Mr. Chairman, the Censors couldn't either accuse us or clear us of the charge that we were paying less than cost unless they knew what the hospitals' cost was.

Dr. Sears: That is true.

Dr. Dammasch: So that we can merely state what we are paying, what their bills are.

Dr. Owen: We have never dickered with them to cut their bills.

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9332 It can't be substituted for the same as on a private prescription.

Dr. Owen: On the hospital, may I answer this: At the time these hospital rates were arrived at, the four hospitals and I met around the table, and I asked them to lay down the rates they wanted us to pay, and each one of them will consistently tell you that the Multnomah has paid private patients' rates from its beginning. Our hospital bills are consistently much higher, Dr. Manlove says, than any other hospital association, that if he was receiving from every patient the money that he is receiving from the Multnomah Industrial Health Association, the hospitals wouldn't be in the red.

Dr. Sears: Two years ago, at the medical meeting at Gearhart, there was a motion made and passed, and committee appointed, that new hospitals,—it was the consensus of opinion of the Medical Society that new hospitals should charge a private ward patient more than was charged to industrial cases or hospital cases. That was taken up by the hospitals, and they never did anything with it.

Dr. Leonard: The answer to that is, after several years, —in years past the board of hospital managers, the private patient howls, but he forgets that he doesn't pay his bills. The hospital association pays their bills, and those facts are not brought out, but private individuals time and time again, when they complain, the percentage of loss in dealing with the private individual is an entirely different problem than dealing with a corporation that pays their bills. We think that that more than offsets any
9333 of these complaints of variation in price.

Dr. Stearns: Dr. Sears, there is a copy of a policy of the Multnomah Industrial Health Association, which was voted on and passed April 19th by the board of directors, answering these ten questions, and I would like to read it and also put it in the minutes. The first is "That any organization desiring information about the Multnomah Industrial Health Association must apply in person or in committee to the Association office. No representative shall be sent to any plant or institution to explain our contract without the request of such instiution.

"2. That, regardless of any previous opinion, we shall continue to operate upon and charge the rates shown by our own actuarial figures.

"3. That the fee schedule of the Multnomah Industrial Health Association shall provide adequate compensation to assure good medical service. Further, that only standardized hos-

pitals, registered pharmacists, ethical dentists, graduate nurses, physician's X-ray and pathological laboratories be employed.

"4. That the original policy of eliminating interference with reasonable competition by permitting all physicians who are members of the State Medical Society to become members of this Association, shall hold. Further, that our fee schedule be adhered to, this being our principle mans of reducing competition to an equal basis.

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9341 Dr. Payne: Not necessarily, no.

Dr. South: There are certain men who are legally qualified, according to that statement there, that I don't believe my association would want to recognize as—

Dr. Dammasch: (Interrupting) May I state there—

Dr. Henton: (Interrupting) We have to give adequate service.

Dr. Dammasch: May I state that we have had applications from physicians who are licensed to practice medicine in Oregon, but haven't put them on our list because they were not members of the Medical Society.

Dr. Henton: We refuse to have anyone who is not a member of the Medical Society.

Dr. Jones: It seems to me that if this committee could show the Multnomah,—as a matter of fact we have promised we will do that,—if they can show us a workable plan whereby that technicality can be removed, this organization is bound by their unanimous vote to do so.

Dr. Henton: I might say, Dr. Sears, these men who are in the Multnomah feel it is serving a useful service and foundation for a wonderful economic structure for the entire medical profession, and we have held on to it and we feel it will be a valuable thing to the medical profession if it can be used by organized medicine.

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9345 Dr. Adams: I think you would be privileged to put on your blacklist any individual showing himself to be dishonest in the padding of his bills to any organization.

Dr. Dammasch: We have gone so far as to exclude from our membership applications that have been made to us, certain men who have been denied privileges in certain hospitals; that is how far we have gone with them.

Dr. Owen: We have also gone so far as to demand consultation with certain men before they do surgery.

Dr. Adams: You would be forced to do that in conformance with sound public policy. There is one thing, however, on the free choice of physician that has not been touched upon which is very pertinent. You have covered it in the eighth point of your resolution here, "we have not and will not intentionally make any contract compulsory in an organization. We will continue to take groups large enough to facilitate administration of a contract." It so happens that it is a condition of employment in many plants of this city that before a man can work for "Whatnot Lumber Company" piling lumber, he must agree either at the time he is employed or immediately thereafter to become a member of some hospital association, virtually to become a member of the specific hospital association that happens to be in acceptance in that plant.

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9347 Dr. Adams: They usually demand ninety percent before they write the contract. Of course there is a lot of pressure brought by those that do want it as against those who do not.

Dr. Stearns: It is a social condition that you have no control over.

Dr. Adams: It will be very vicious eventually.

Dr. Henton: The two points that need clarifying are free choice of physician and solicitation.

Dr. Adams: Solicitation has been pretty well defined, "any effort or any means which results in gathering into a given individual or organization a patient" constitutes solicitation.

Dr. Henton: I can see how an interpretation could be put upon that that we were soliciting where we are following up those old contracts, and I question very much whether that is wise thing.

Dr. Owen: We are not following them up any more.

Dr. Henton: Not any more, we are not, personally. I didn't think about that being so construed, but I can see how it could have been so construed.

Dr. Adams: The free choice situation is mentioned in the code of ethics and in the amplification of the code by the ten points, and by the Oregon State Medical Society, and that is possibly a matter of interpretation there.

9348 Dr. Stearns: With the other hundred and eighty or ninety members of the Medical Society, the same thing is in existence. The school teacher can't be

examined, only by certain designated ones, which charge $15.00 for examination.

Dr. Adams: I wish you hadn't mentioned that.

Dr. Sears: The hour is late, so we will adjourn the meeting. The meeting is officially adjourned.

(Whereupon, at the hour of 10.25 o'clock p.m., the meeting was adjourned.)

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Plaintiff's Exhibit 1979

9349 OREGON STATE MEDICAL SOCIETY
MEDICAL-DENTAL BUILDING
PORTLAND, OREGON

November 27, 1939

Dear Dr.

We are enclosing a copy of Recommended Policies and Procedures for Providing Medical Care to Low-Wage Industrial Groups, recently adopted by the Bureau of Medical Economics and the Council of the Oregon State Medical Society.

These Recommended Policies and Procedures were developed as an outgrowth and more detailed elaboration of the Statement of Policy and Program for the Medical Care of Low-Wage Industrial Groups adopted by the House of Delegates at the 1938 Session. They are designed to serve as a guide to component societies and approved local organizations offering plans of prepaid medical care to this group of the population.

It is highly important that the members of every component society be fully informed concerning these Recommended Policies and Procedures. Therefore, we respectfully request that you present a summary of them at the next meeting of your society. Please also call the attention of your members to the digest of these policies which was published in the Oregon Section of the November issue of "Northwest Medicine".

Thanking you in advance for your cooperation, we are

Very sincerely yours,

OREGON STATE MEDICAL SOCIETY

by .....
Secretary

Plaintiff's Exhibit 1980

9350 OREGON STATE MEDICAL SOCIETY
MEDICAL-DENTAL BUILDING
PORTLAND, OREGON

December 11, 1939

Dear Dr.

At the meeting of the Council of the Oregon State Medical Society on December 3rd, there was extended discussion concerning the unethical practices of a number of physicians in various parts of the state in connection with unapproved plans of prepaid medical care.

These unethical practices are in conflict with the program of the Society to meet the problem of providing medical care to low-wage industrial workers. No doubt you are familiar with the comprehensive plan of the Society to supply medical care to this group.

Under the Society's program, approved medical service bureaus are operating in a number of counties, including Clackamas, Coos, Jackson, Lane, Multnomah, Marion, Tillamook, and Union Counties. By special permission of the Council, plans of prepaid medical care are being offered in Columbia, Hood River, Wasco, Washington, and Yamhill Counties through one of the approved bureaus operating in the counties first named. It will thus be seen that the program of the Society is already reaching into 13 of the 36 counties, including a majority of the industrial centers of the state. Approximately 30,000 employees are now covered under this program.

Plans are under way to provide similar prepaid medical service in a number of other counties, either through the organization of additional local medical service bureaus, or through one or the other of the existing bureaus. The activities of these approved organizations are coordinated through affiliation with the Bureau of Medical Economics of the Oregon State Medical Society.

The various approved local medical service bureaus are doing splendid work in meeting the problem of supplying medical care to the low-wage industrial worker. However, their effectiveness in accomplishing this objective has been and is being impeded by the unethical practices of some physicians in the communities where approved bureaus are in operation.

For this reason, at its meeting on December 3rd, the Council adopted a motion to the effect that these unethical prac-

tices should be scrutinized by the local societies and that each local society should take disciplinary action against any of its members whose practices are found to be unethical. Unless the local societies invoke proper disciplinary proceedings against members engaged in such practices, their affiliation with the Oregon State Medical Society, as component societies, will be jeopardized.

The motion adopted by the Council further provided that the local societies should institute disciplinary proceedings by January 1, 1940.

Please bring this matter to the attention of your Society for appropriate action.

Very sincerely yours,

OREGON STATE MEDICAL SOCIETY

by .....
Secretary

Plaintiff's Exhibit 1981

9351

JON V. STRAUMFJORD, M.D.
INTERNAL MEDICINE

FRANK E. BOYDEN, M.D., F.A.C.S.
SURGERY AND OBSTETRICS

ALLEN M. BOYDEN, M. S., M.D.
SURGERY

ASTORIA, OREGON

January 8, 1940

Mr. Clyde C. Foley
Secretary Oregon State Society
Medical Dental Bldg.
Portland, Oregon

Dear Mr. Foley:

In answer to your letter of January 4th. Our regular meeting will be held Friday, January 12th, 1940, at 7:30 P.M. We hope to have a 100 per cent attendance.

We are expecting your delegation to be present, and have no other program.

Write me if you expect to stay over that night, that we may make some arrangements for you.

I hope you have the policy of the state well worked out, and that you can give us some positive and practical advice.

Very truly yours,

(Signed) F. E. Boyden
Frank E. Boyden, M.D.

FEB:DA

Come in time for dinner & call us up. F.E.B.

9352 January 4, 1940

Dr. Frank E. Boyden, President
Clatsop County Medical Society
Astoria, Oregon

Dear Dr. Boyden:

In accordance with our conversation of last week, we are enclosing a suggested resolution for the consideration of the Clatsop County Medical Society. This resolution contains a suggested policy with respect to hospital association and other similar plans of medical and hospital care, in consonance with the policy which the Executive Committee will shortly recommend to the Council of the Oregon State Medical Society.

If you will let us know the time and place of the next meeting of the Clatsop County Medical Society, we shall endeavor to arrange to have Dr. Martzloff and Dr. Fitzgibbon present to discuss this and other problems now confronting the medical profession and the activities of the Oregon State Medical Society in meeting them.

Very sincerely yours,

Oregon State Medical Society

by .....
Executive Secretary

9353

WHEREAS, The Council of the Oregon State Medical Society has established certain criteria to test whether hospital association and other similar plans of medical and hospital care may be approved by it; and